



JBH:cmw 1/26/07 6395-68278-03 643157 1-034-99

PATENT  
Attorney Reference Number 6395-68278-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Papania et al.

Application No. 10/587,814

Filed: July 28, 2006

Confirmation No. 5324

For: AEROSOL DELIVERY SYSTEMS AND  
METHODS

Examiner: Not Yet Assigned

Art Unit: 1615

Attorney Reference No. 6395-68278-03

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)

Date Mailed January 26, 2007

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

TRANSMITTAL LETTER

Enclosed for filing in the application referenced above are the following:

- ☒ Renewed Petition To Make Special Based On Manufacture Under 37 CFR § 1.102(d) And MPEP § 708.02(I).
- ☒ The Director is hereby authorized to charge any fees that may be required, or credit overpayment, to Deposit Account No. 02-4550. A copy of this sheet is enclosed.
- ☒ Please return the enclosed postcard to confirm that the items listed above have been received.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: (503) 595-5300  
Facsimile: (503) 595-5301

By

Jeffrey B. Haendler  
Registration No. 43,652

cc: Docketing

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of: Papania et al.**

**Application No. 10/587,814**

**Filed: July 28, 2006**

**Confirmation No. 5324**

**For: AEROSOL DELIVERY SYSTEMS AND  
METHODS**

**Examiner: Not Yet Assigned**

**Art Unit: 1615**

**Attorney Reference No. 6395-68278-03**

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)

Date Mailed January 26, 2007

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**RENEWED PETITION TO MAKE SPECIAL BASED ON MANUFACTURE  
UNDER 37 CFR § 1.102(d) AND MPEP § 708.02(I)**

This responds to the December 21, 2006 Decision of the Patent Office denying Applicants' "Petition to Make Special Based on Manufacture under MPEP § 708.02(I)" filed on July 28, 2006. Applicants respectfully request reconsideration of that Decision.

The Decision states that Applicants' petition to make special fails to meet the requirements of MPEP § 708.02(I)(A) because it fails to state the approximate amount of capital in possession of the prospective manufacturer. Applicants disagree that the petition fails to satisfy the requirement under MPEP § 708.02(I)(A).

MPEP § 708.02(I)(A) provides that a petition to make special based on manufacturing must allege: (i) "the possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity" or (ii) "that sufficient capital and facilities will be made available if a patent is granted." Thus, a petition to make special need not specify the amount of capital in possession of the prospective manufacturer if the petition states that sufficient capital and facilities will be made available if a patent is granted.

Applicants' petition states: "AerovecRx asserts that it has sufficient capital through outside investors and facilities to manufacture the invention in quantity to be made available to

AerovecRx if a patent is granted.” Applicants submit that the foregoing statement satisfies the requirement under MPEP § 708.02(I)(A), and therefore the petition to make special should be granted.

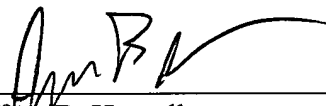
Please charge any fees that may be required in connection with filing this petition, or credit any overpayment, to Deposit Account No. 02-4550. A copy of this sheet is enclosed.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: (503) 595-5300  
Facsimile: (503) 595-5301

By

  
\_\_\_\_\_  
Jeffrey B. Haendler  
Registration No. 43,652